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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/842,417	04/25/2001	Rogers C. Ritter	5236-000227	7860
7590 12/16/2005				
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		EXAMINER		
		MANTIS MERCADER, ELENI M		
		ART UNIT		
		PAPER NUMBER		
		3737		
DATE MAILED: 12/16/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/842,417

Applicant(s)

RITTER ET AL.

Examiner

Eleni Mantis Mercader

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-19 and 21-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 3-19 and 21-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102 or in the alternative 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 3 and 6 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Bladen et al.'820 (US Patent No. 5,913,820).

Bladen et al.'820 teaches at least three magnetic field generators (elements 1 of Figure 1) arranged on a planar support (element 2 of Figure 1) to provide a magnetic field effective within the operating region to navigate the magnetic medical device (element 7 of Figure 1) within the operating region. While the magnetic field generators are not magnets, they are capable of performing the same function of providing a magnetic field effective to navigate the medical device. In the alternative the magnetic field generators /coils and magnets constitute functional equivalents in that while structurally different they still radiate magnetic fields.

Note that the claim does not address that the magnetic field moves the medical device, only that it navigates. Navigation includes localization of the device in order to guide it.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3-19 and 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Creighton, IV et al.'761 (US Patent No. 6,529,761) in view of Bladen et al.'820 (US Patent No. 5,913,820).

Creighton, IV et al.'761 teach a system for navigating a medical device having at least three or more magnets operating at a magnetic field of at least 0.1 T in any direction and which are configured and arranged on a support (see col. 4, lines 37-56; and see Figure 3A). Creighton, IV et al.'761 do not expressly teach a planar support but the reference while teaching an arcuate support provides that alternative supporting structures can be used as long as the imager is not affected (see col. 6, lines 38-63 and col. 5, lines 10-18). Therefore, it would have been obvious to one skilled in the art to provide any support structure including planar as opposed to arcuate as long as there was enough space between the magnets and the imager to allow for the imaging to occur unobstructed. Furthermore, Bladen et al.'820 teach at least three magnetic field generators (elements 1 of Figure 1) arranged on a planar support (element 2 of Figure 1). Therefore, it would have been obvious to one skilled in the art at the time that the invention was made to have modified Creighton, IV et al.'761 and incorporated the magnets or magnetic field generators on a

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planar support as taught by Bladen et al.'820 as an alternative arrangement to any other type of arrangement.

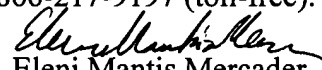
Creighton, IV et al.'761 further teach the at least three magnets or coils operating to navigate without affecting an imaging system with the magnetic fields (see in Figure 3A imager represented by elements 12 and 14 and see col. 5, lines 10-18). For the multiple rows of magnets on the planar support see Figure 2, which is an alternative embodiment to Figure 3A but which provides another arrangement for delivering sufficient energy to navigate the medical device.

Conclusion

1. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eleni Mantis Mercader whose telephone number is (571) 272-4740. The examiner can normally be reached on Mon. - Fri., 8:00 a.m.-6:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on (571) 272-4956. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Eleni Mantis Mercader
Primary Examiner
Art Unit 3737

EMM